

The Second Division consisted of the regular members and in addition Referee George E. Larney when award was rendered.

Parties to Dispute: { International Brotherhood of Firemen & Oilers
{ Denver and Rio Grande Western Railroad Company

Dispute: Claim of Employees:

1. Under the current controlling Agreement, Messrs. R. DeRose and L. Palmer, laborers, Grand Junction Colorado, were denied an opportunity to perform overtime service on May 29, 1977.
2. That, accordingly, The Denver and Rio Grande Western Railroad Company be ordered to compensate Mr. R. DeRose for eight hours pay at the time and one-half rate, and compensate Mr. L. Palmer for four and one-half hours pay at the time and one-half rate.

Findings:

The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employe or employes involved in this dispute are respectively carrier and employe within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

On Sunday, May 29, 1977, Carrier required that some freight cars be washed. To this end, according to the Carrier, the General Foreman attempted to contact all laborers with the result that those contacted refused the overtime assignment. In some cases, the General Foreman was unable to reach laborers he called because no one answered the phone. As an alternative, the work was then assigned to employees of the Carman Craft. The International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers, the Organization at interest here in the instant case, asserts Claimants were rested, available, were first out on the overtime list and were not called.

Based upon a complete and thorough review of the record, the Board discerns it is confronted with a stark conflict in facts asserted by the parties at interest relative to the substantive issue of whether Claimants were or were not called and offered the overtime work on May 29, 1977. On this basic and central point, the Board finds the record to be devoid of sufficient evidence upon which to make a determination, as both parties have merely repeated its assertions made on the property rather than placing before us some substantiation of their positions and arguments. We note further that in their respective submissions to this Board, the parties have raised other matters and contentions which are clearly not reflected

as having been raised during the handling of this dispute on the property. While some of these contentions may have provided guidance in our deliberation of this dispute, it is well established that the Board cannot entertain that which can be viewed as new argument. For these foregoing reasons, the Board must, accordingly, dismiss the claim.

A W A R D

Claim dismissed.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Second Division

Attest: Executive Secretary
National Railroad Adjustment Board

By Rosemarie Brasch
Rosemarie Brasch - Administrative Assistant

Dated at Chicago, Illinois, this 21st day of January, 1981.